

an enforceable obligation before penalties may be imposed under CC §1719. *Cohen v Disner* (1995) 36 CA4th 855, 861, 42 CR2d 782.

D. [§6.5] Injury Caused by Certain Unlicensed Persons (CCP §1029.8)

Code of Civil Procedure §1029.8 provides that any unlicensed person who causes injury or damages to another person as a result of providing goods or services for which a license is required under specified provisions of the Business and Professions Code shall be liable to the injured person in a civil action for treble damages. The court may also in its discretion award costs (and attorneys' fees in other than small claims court) to a prevailing plaintiff. This section is not to be construed to confer an additional cause of action or to affect or limit any other remedy including, but not limited to, a claim for exemplary damages. Exceptions to application of the section are set forth in CCP §1029.8(d)–(e).

III. [§6.6] INTEREST CLAIMS

Every person with a right to recover damages that vest on a particular day, and are certain, or capable of being made certain by calculation, is also entitled to recover interest at the legal rate on the damages from that day, except for periods during which the debtor is prevented by law or by the creditor from paying the debt. CC §3287(a). Civil Code §3287(a) allows recovery of prejudgment interest in causes of action other than contract; the crucial factor is whether the damages were readily ascertainable. See *Marine Terminals Corp. v Paceco Corp.* (1983) 145 CA3d 991, 193 CR 687.

Every person with rights to recover damages under a judgment based on a contract action in which the claim was unliquidated may also recover interest on it from a date, fixed by the court in its discretion, before entry of judgment but not earlier than the date the action was filed. CC §3287(b).

Under CC §3291, the plaintiff may claim interest on damages in a personal injury action resulting from a tort. When the statutory conditions are met, CC §3291 mandates an award of prejudgment interest, but only for the personal injury portion of a more general total recovery. *Morin v ABA Recovery Serv., Inc.* (1987) 195 CA3d 200, 240 CR 509.

Under CC §3288, in actions other than contract and in every case of oppression, fraud, or malice, interest may be awarded “in the discretion of the jury.” The small claims court judge, sitting as the trier of fact, has discretion to award interest under this provision, because there is no jury in small claims court cases. See *Nathanson v Murphy* (1955) 132 CA2d 363, 373, 282 P2d 174. For a discussion of some common problems relating to interest claims, see §§6.7–6.10.